

REMARKS/ARGUMENTS

Claims 9-12, 14-16, 18-22, 24-32, 34-36, and 38-39 are currently pending in this application.

Expedited Handling

This Reply is being filed within two months from the mailing date of the May 13, 2009 Office Action. Expedited handling pursuant to 37 C.F.R. §1.116 is respectfully requested.

Claim Rejections - 35 U.S.C. §102

Claims 9-39 are rejected under 35 U.S.C. 102(b) as being unpatentable over 5,150,361 to Wieczorek et al. (hereinafter Wieczorek).

In Item 3 of the Office Action, the Examiner states that Wieczorek teaches "a low power mode (read as the at least one intermediate power consumption level mode), a non-energy saving mode (read as the on power consumption level mode). In addition, when the communicate device is turned off (powered off), it is in the off power consumption level mode. Therefore, Wieczorek discloses three different power modes."

Applicants respectfully disagree and submit that the Examiner's rejection is improper as the Examiner is reading the low power mode taught by Wieczorek as both the claimed *off power consumption* and the claimed *intermediate power consumption level*.

The portion of Wieczorek upon which the Examiner relies is reproduced below.

According to the invention, the communication unit may be made to function in one of two operational mode: a low power or energy saving mode and a high power or non energy saving mode. (see *Wieczorek, column 5, lines 4-7, emphasis added.*)

Clearly Wieczorek discloses only two operational modes. Wieczorek further defines operation of various device components in the "low power or energy saving mode" introduced above as follows.

In order to conserve energy, the controller 320 periodically deactivates non-essential circuits...(see *Wieczorek, column 4, lines 45-47, emphasis added.*)

Wieczorek only teaches fully activated circuit components or fully deactivated circuit components, as evidenced by the above citations. Accordingly, Wieczorek only teaches two power consumption levels.

The Examiner implicitly admits this flaw in Wieczorek as the Examiner relies on the following unsupported statement in rejecting the claims, "when the communicate device is turned off (powered off), it is in off power consumption level

mode." Nowhere does Wieczorek teach or even suggest turning off the entire battery powered device. Even if, arguendo, the entire battery powered device of Wieczorek was powered off, the various circuit components of the device would be in "low power or energy saving mode" as taught by Wieczorek, in other words, "deactivated".

The Examiner fails to show a teaching in Wieczorek of the claimed *intermediate power consumption level* that is a power consumption level between an *on power consumption level* and an *off power consumption level*. It is respectfully submitted that Wieczorek fails to teach or even suggest an *intermediate power consumption level* as claimed.

Independent claims 9, 19, and 29 recite similar elements. Claims 10-12, 14-16, and 18 are dependent upon claim 9, claims 20-22, 24-28 are dependent upon claims 19, and claims 30-32, 34-36, and 38-39 are dependent upon claim 29. Applicants believe these claims are allowable over the cited references of record for the reasons provided above.

Based on these arguments, withdrawal of the 35 U.S.C. §102(e) rejection is respectfully requested.

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Request for Interview

Should the Examiner not be convinced by the foregoing argument, prior to Appeal, the Applicant's request the opportunity to discuss the Examiner's reasoning in a telephonic interview, preferably before the issuance of an Advisory Action. The Examiner is invited to contact the undersigned at the Examiner's convenience.

Conclusion

In view of the foregoing remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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